

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE HEALTH CORPORATION,
a Delaware corporation

Plaintiff,

v.

MICHAEL O. LEAVITT, Secretary of
Health and Human Services,

Defendant.

Case Number: 07-829 -SLR

DEFENDANT'S CROSS-MOTION FOR SUMMARY JUDGMENT

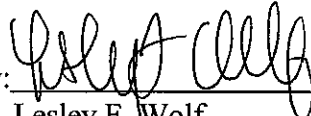
Defendant Michael O. Leavitt, Secretary of Health and Human Services, respectfully moves, pursuant to Fed. R. Civ. P. 56, for summary judgment of Plaintiff's Complaint. In support of this Motion, the Court is respectfully referred to the accompanying Brief. A proposed Order consistent with this Motion is attached hereto.

DATED: June 13, 2008

Respectfully submitted,

COLM F. CONNOLLY
United States Attorney

By: _____


Lesley F. Wolf
Assistant United States Attorneys
The Nemours Building
1007 Orange Street, Suite 700
P.O. Box 2046
Wilmington, DE 19899-2046
(302) 573-6277



Brett J. Bierer
U.S. Department of Health and Human
Services
Office of the General Counsel
Centers for Medicare and Medicaid Services
Division
Room C2-05-23
7500 Security Boulevard
Baltimore, Maryland 21244-1850
(410) 786-1473

Attorneys for Defendant

OF COUNSEL:

THOMAS R. BARKER
Acting General Counsel

JANICE L. HOFFMAN
Associate General Counsel

MARK D. POLSTON
Deputy Associate General
Counsel for Litigation

United States Department of
Health and Human Services

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DELAWARE HEALTH CORPORATION,
a Delaware corporation

Plaintiff,

v.

MICHAEL O. LEAVITT, Secretary of
Health and Human Services,

Defendant.

Case Number: 07-829-SLR

ORDER

AND NOW, this _____ day of _____, 2008, upon consideration of Defendant Michael O. Leavitt's Motion for Summary Judgment, and all papers filed in support thereof and opposition thereto, it is hereby ORDERED that Defendant's Motion is GRANTED and Plaintiff's Complaint against Defendant is DISMISSED with prejudice.

IT IS SO ORDERED

HONORABLE SUE L. ROBINSON
UNITED STATES DISTRICT JUDGE